



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 30

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www.nlrb.gov

June 9, 2005

Ms. Kelli Bunnell
POB 135
Shiocton, WI 54170

**Re: R. Sabee Company, LLC
Case 30-RD-1441**

Dear Ms. Bunnell:

The Region has carefully investigation and considered your petition in the above-captioned case, petitioning for an investigation and determination of representatives under Section 9(c) of the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have concluded that further proceedings are not warranted, and I am dismissing your petition for the following reasons:

On December 30, 2003, the Acting Regional Director issued a Complaint in Case 30-CA-16482. The Complaint alleges that R. Sabee Company, LLC (R. Sabee), Sabee Products, Inc. (Sabee Products), JMS Converters, Inc. (JMS), and various other business entities owned by the Sabee family committed several violations of Section 8(a)(1), (3), and (5) of the Act. These alleged violations stemmed from the division in 2003 of the Sabee family businesses between two factions of the Sabee family. The alleged violations, among other things, include the Respondents' failure to bargain over the distribution of bargaining unit work resulting from the division; the Respondents' failure to provide information; JMS's refusal to recognize the Union and apply the terms of the collective bargaining agreement; and JMS's failure to hire employees of R. Sabee. The Complaint alleges that R. Sabee, JMS, Sabee Products, and other Sabee family business entities are liable for the unfair labor practices under alter ego, joint employer, and/or successor theories.

In November 2004, R. Sabee, Draper Products, Inc., and Circle Machinery and Supply Company signed an Informal Board Settlement Agreement, which was approved by the Acting Regional Director on November 8, 2004. This Settlement remedied the alleged unfair labor practices involving R. Sabee, however, its compliance with the settlement has not yet been completed. The Complaint, however, remained outstanding against Sabee Products, JMS, and other entities controlled by J. Michael Sabee (Sabee Products, et al.). The hearing opened on November 15, 2004, and subsequently resumed on February 14, 2005. On February 15, 2005, Sabee Products, et al. filed an Interlocutory Appeal. On February 16, 2005, the Board granted a stay of the hearing pending further action by the Board. The hearing will resume once the Board issues a ruling on the Interlocutory Appeal.

If the General Counsel prevails in the litigation, Sabee Products, et al. will be ordered to remedy the unfair labor practices. These unfair labor practices significantly impact the workforce still working at R. Sabee, and they were only partially remedied by the November 8, 2004 Informal Board Settlement.

Under all these circumstances, I find that no question concerning representation may be raised until the final disposition of the unfair labor practices in Case 30-CA-16482. Accordingly, the petition is hereby dismissed. However, the petition will be subject to reinstatement if Sabee Products, et al. prevails in the litigation, and the Complaint in Case 30-CA-16482 is ordered dismissed.¹

Your Right to Seek Review. The National Labor Relations Board's Rules and Regulations permits any party to obtain a review of this action by filing a request (eight copies) with the Executive Secretary. If you wish to seek review of this action, your attention is directed to the following.

Review Request Due Date: The request for review must be received by the Executive Secretary in Washington, D.C. by the close of business at 5:00 p.m. (ET) on June 23, 2005. However, if you mail the request for review, it will be considered timely if it is postmarked no later than one day before the due date.

Other Electronic Filings: In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with the Board in Washington, DC. If a party wishes to file one of these documents electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov" on the National Labor Relations Board web site: www.nlrb.gov.

Extension of Time to File Request for Review: Upon good cause shown, the Board may grant special permission for a longer period within which to file. A request for an extension of time should be submitted to the Executive Secretary. A copy of any such request for extension of time should be submitted to me and to each of the other parties to this proceeding and the copy must be served in the same or faster manner as that utilized in filing the request with the Board.

Request for Review Contents: Any request for review (eight copies) must contain a complete statement setting forth the facts and reasons upon which it is based. You should send a copy of the request for review to me. The request for review must be served in the same or faster manner as that utilized in filing the request with the Board.

¹ You will be treated as a party in interest in Case 30-CA-16482 and will be notified of the procedural developments in the case.

June 28, 2005

Address for Request for Review: The request for review should be sent to the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, DC 20570.

Very truly yours,

/s/Irving E. Gottschalk
Irving E. Gottschalk
Acting Regional Director

cc: R. Sabee Company, L.L.C.
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Executive Secretary, ***VIA-E-MAIL***
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